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COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Supreme Judicial Court

ORDERIN RE: HOURS OF COURT

1. The attention of the justices of the Trial Court is directed to G.L. c. 211B, § 4 which provides that "[t]he justices of the trial court shall devote their entire time during business hours to their respective duties"

2. The attention of the justices of the Trial Court is also directed to Administrative Order No. 1, promulgated on April 25, 1980 by the Chief Administrative Justice, and the several standing orders, directives, memoranda or rules issued or adopted by the Chief Justices or Justices of the Trial Court in implementation of Administrative Order No. 1, consistent with G.L. c. 211B, § 4, relative to the hours of court for the Trial Court, generally from 9:00 a.m. to 4:00 p.m. or, in the alternative in at least one department, from 9:30 a.m. to 4:30 p.m.

3. In view of the foregoing, the universal backlogs of cases in all departments and divisions of the Trial Court, the judicial branch's severe fiscal constraints, and the need for public confidence in the integrity of the courts and of the judicial process, it is beyond question that justices of the Trial Court, absent compelling reasons warranting authorized absences, have a legal, professional and moral duty to be at work daily at their assigned courthouses on a full-time basis to attend to pending business. We recognize that there are conscientious and diligent judges who need no reminder of their professional obligations. Nevertheless, we do consider the distribution and publication of this order to be both appropriate and necessary.

4. Therefore, the Chief Justices of the several departments of the Trial Court are again notified that it is their direct responsibility, as the administrative heads of their departments, G.L. c. 211B, § 10, to seek and to obtain compliance with G.L. c. 211B, § 4, Administrative Directive No. 1 and departmental policies adopted pursuant to them. To the extent that any departmental Chief Justice may doubt his authority to take effective administrative action to enforce these provisions, we repeat, once again, that the Chief Justices in addressing administrative matters such as regular attendance to established



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court hours on a full-time basis should consider themselves to possess and do, in fact, possess, either by statutory grant or by delegation from this Court, plenary powers of general superintendence subject only to review by this Court on the petition of an aggrieved judge.

5. Should a Chief Justice fail to obtain a judge's compliance with established hours of court through appropriate administrative action including, for example, the forfeiture of accrued vacation or personal leave to offset unauthorized absences, the Chief Justice should report those facts to the Chief Administrative Justice for appropriate action, including referral to this Court. G.L. c. 211B, § 11. Should a particular judge engage in a pattern of non-compliance and fail to cooperate with the remedial efforts of a Chief Justice, the Chief Justice should, in addition, consider referral of such violations to the Commission on Judicial Conduct. See G.L. c. 211C, § 2(2).

6. The departmental Chief Justices of the Trial Court shall promptly and from time to time, thereafter, report to the Justices of the Supreme Judicial Court and the Chief Administrative Justice the measures which they intend to take in order to enforce policies relative to the established hours of court. They shall also report any foreseeable problems requiring assistance or further instructions and any need for specific authority to carry out the directions of this order.

7. Of course, the foregoing principles relate with equal force to the maintenance of regular court hours by clerks and registers and their assistants, probation officers, court officers and other employees of the judicial department. See Trial Court Personnel Policies and Procedures Manual § 2.100; collective bargaining agreements applicable to professional and non-professional employees, § 17.02; collective bargaining agreement applicable to probation officers and court officers, § 17.02; collective bargaining agreements applicable to Superior Court court officers in Suffolk and Middlesex counties, § 17.02; and SJC Rule 3:12, Code of Professional Responsibility for Clerks of the Courts, Canon 3.

8. Each Chief Justice shall ensure that a copy of this memorandum is delivered to every justice, clerk, register or recorder and chief probation officer or probation officer in charge or corresponding family service officer in his department.

9. Each Chief Justice shall also ensure that a copy of this order is posted in a public place in each courthouse in his department.

PAUL J. LIACOS

HERBERT P. WILKINS

RUTH I. ABRAMS

JOSEPH P. NOLAN

NEIL L. LYNCH

FRANCIS P. O'CONNOR

JOHN M. GREANEY

October 1, 1990

